Attorney Docket No.: ZL076/04010

Inventor: Kuhl et al. Appl. No.: 10/654,169

<u>REMARKS</u>

The Examiner has rejected all of the elected claim of Species C and the generic claims

under 35 U.S.C. § 103(a) as unpatentable over Akutsu. The Akutsu reference is drawn to an

invention having a wholly different purpose than Applicant's invention. Applicant's invention is

designed to continually separate winnowings (which are portions of cut tobacco laminae deemed

to be too large for cigarette making) from usable (or finer) tobacco particles, all within a stream

of tobacco particles typically being transported to the rod making portion of a cigarette making

machine.

Akutsu, in contrast, is directed to an apparatus which works in conjunction with a

machine which prepares raw tobacco leaves for storage and maturization by stripping the lamina

of the tobacco leaf from the tobacco leaf stems, a process commonly referred to as threshing.

This process typically is performed long before the tobacco is ready for use in a cigarette making

machine.

The Akutsu mechanism and process, removes a sample of the threshed lamina from the

raw material treatment line (typically a conveyor) and feeds the lamina under a television camera

which acts in conjunction with other electronics to sense the size of the lamina. The size data is

then fed back to the thresher to control its operation in order to produce a lamina of desired size.

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It should be noted that the wholly different purpose of the *Akutsu* apparatus results in significant distinctions in function and associated structure in comparison to Applicant's invention.

Firstly, Akutsu functions by sampling stripped tobacco laminae being transported on a conveyor from a threshing machine, for storage. There is no teaching or suggestion of Applicant's invention which continually measures size distribution within a stream of winnowers and usable tobacco particles in the process of making a smokable product such as a cigarette.

Secondly, the Akutsu device merely detects lamina size and feeds data back to a threshing machine producing the laminae to control its operation to produce acceptable size laminae for storage and maturization. There again is no teaching or suggestion of Applicant's invention in which size distribution in a tobacco stream headed toward a maker is continually monitored to operate an arrangement for separating cut tobacco winnowers from finer cut tobacco particles usable in the maker. The Akutsu device performs no separating function, and again does not operate continually on a stream of cut tobacco particles in a cigarette making process.

In short, the Akutsu device and process is taught for use at a wholly different stage and in a different environment, namely controlling threshing of raw tobacco headed to storage as compared to Applicant's invention directed to separating winnowers from usable tobacco particles in a cigarette making operation. Akutsu discloses a method for controlling the function of a machine for producing laminae from raw tobacco. The invention relates to a method for separating winnowers from usable tobacco particles in a cigarette manufacturing process. There is no analogy as between these totally disparate functions.

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Applicant has amended the claims to more clearly define that Applicant's method

functions continually on a stream of tobacco particles in the process of manufacture of a

smokable product such as a cigarette; and that the object of the method is to separate winnowers

from usable tobacco particles in that stream.

Accordingly, it is respectfully submitted that the claims drawn to Species C and the

generic claims are in condition for allowance. Additionally, in view of the allowability of the

generic claims, Applicant respectfully requests an action on the merits for the claims currently

withdrawn. Such action is respectfully requested.

Applicant also requests that the Examiner contact Applicant's Attorney at the phone

number below if there are any outstanding issues.

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Respectfully submitted,

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